

Assembly Bill No. 2915

CHAPTER 1101

An act to add Section 1284.3 to the Code of Civil Procedure, relating to arbitration.

[Approved by Governor September 29, 2002. Filed with Secretary of State September 29, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2915, Wayne. Arbitration.

Existing law regulates the conduct of arbitration proceedings, providing for, among other things, the powers and duties of a neutral arbitrator or arbitrators, the appointment of times and places for hearings, the exchange of witness lists, and the right of representation by counsel.

This bill would prohibit a neutral arbitrator or private arbitration company from administering any consumer arbitration that requires a nonprevailing consumer who is a party to the arbitration to pay the opposing party's costs or fees. The bill would require a private arbitration company to waive the fees and costs of arbitration, exclusive of arbitrator fees, for an indigent consumer, as defined. The bill would also require a private arbitration company to provide written notice to any consumer of the right to obtain a fee waiver, as specified, and to keep specified information concerning a consumer confidential, with certain exceptions.

The people of the State of California do enact as follows:

SECTION 1. Section 1284.3 is added to the Code of Civil Procedure, to read:

1284.3. (a) No neutral arbitrator or private arbitration company shall administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration pay the fees and costs incurred by an opposing party if the consumer does not prevail in the arbitration, including, but not limited to, the fees and costs of the arbitrator, provider organization, attorney, or witnesses.

(b) (1) All fees and costs charged to or assessed upon a consumer party by a private arbitration company in a consumer arbitration, exclusive of arbitrator fees, shall be waived for an indigent consumer. For the purposes of this section, "indigent consumer" means a person having a gross monthly income that is less than 300 percent of the federal

poverty guidelines. Nothing in this section shall affect the ability of a private arbitration company to shift fees that would otherwise be charged or assessed upon a consumer party to a nonconsumer party.

(2) Prior to requesting or obtaining any fee, a private arbitration company shall provide written notice of the right to obtain a waiver of fees to a consumer or prospective consumer in a manner calculated to bring the matter to the attention of a reasonable consumer, including, but not limited to, prominently placing a notice in its first written communication to the consumer and in any invoice, bill, submission form, fee schedule, rules, or code of procedure.

(3) Any consumer requesting a waiver of fees or costs may establish his or her eligibility by making a declaration under oath on a form provided to the consumer by the private arbitration company for signature stating his or her monthly income and the number of persons living in his or her household. No private arbitration company may require a consumer to provide any further statement or evidence of indigence.

(4) Any information obtained by a private arbitration company about a consumer's identity, financial condition, income, wealth, or fee waiver request shall be kept confidential and may not be disclosed to any adverse party or any nonparty to the arbitration, except a private arbitration company may not keep confidential the number of waiver requests received or granted, or the total amount of fees waived.

(c) This section applies to all consumer arbitration agreements subject to this article, and to all consumer arbitration proceedings conducted in California.

